

# **The Utah Department of Environmental Quality**

## **VOLUNTARY CLEANUP PROGRAM**

### **History**

The Utah State Legislature passed the Voluntary Release Cleanup Program statute during the 1997 legislative session. This legislation created the Voluntary Environmental Cleanup Program (VCP) under the direction of the Utah Department of Environmental Quality (UDEQ), effective May 5, 1997. The purpose of the program is to encourage the voluntary cleanup of sites where there has been a contaminant release threatening public health and the environment, thereby removing the stigma attached to these sites which blocks economic redevelopment. Voluntary cleanup of these sites will hopefully result in clearing the pathway for returning these properties to beneficial use.

### **Eligibility**

Under this program, eligible sites and applicants may submit an application for inclusion in the program for **voluntary** private-party site cleanups under the direction and oversight of UDEQ. All sites and applicants are eligible for participation except the following:

- a treatment, storage, or disposal facility regulated under 42 U.S.C. 6901 et seq.;
- that portion of a site that is on the national priorities list; or
- that portion of a site for which an administrative, state, or federal enforcement action is existing or pending against the applicant for remediation of the contaminants described in the application. (Utah Code Annotated 19-8-105)

### **Application Process**

To apply, a formal application must be submitted to the UDEQ with a \$2,000.00 application fee. Application must be made using the UDEQ application form and include pertinent information regarding the applicant and the applicant's ability to perform the voluntary cleanup. Information required as part of the application includes the applicant's financial capability, pertinent site information including property ownership, current and proposed property use, prior and present contact with regulatory programs that relate to the environmental condition of the property, and intended response action objectives. An environmental assessment is also required to be submitted as part of the application. The environmental assessment must include the following components:

- a legal description of the site;
- a description of the physical characteristics of the site;
- the operational history of the site to the extent known by the applicant;
- information of which the applicant is aware concerning the nature and extent of any relevant contamination or release at the site and immediately contiguous to the site, and where the contamination is located; and

- relevant information of which the applicant is aware concerning the potential for human and environmental exposure to contamination at the site. (Utah Code Annotated 19-8-107)

UDEQ reviews each application in a two-tiered review process. The first tier of review is for completeness of the application and a determination of eligibility for the program. If the site/applicant is determined eligible, then a second tier review of the environmental assessment is conducted. The environmental assessment is reviewed for completeness and provides information to UDEQ that helps the VCP staff gain an understanding of site conditions and the applicant's anticipated voluntary action proposed. Upon satisfactory review of the environmental assessment a Voluntary Cleanup Agreement is entered into between the applicant and UDEQ for cleanup of the site by the applicant with UDEQ oversight.

### **The Voluntary Cleanup Agreement**

A Voluntary Cleanup Agreement (VCA) must be entered into between UDEQ and the applicant before UDEQ can review any workplans or reports. The agreement provides for reimbursement of UDEQ oversight costs by the applicant. It also specifies the anticipated land use for which the applicant will be cleaning up the property so that appropriate action levels can be set by UDEQ for the cleanup. A workplan detailing the work to be performed with a schedule for completion will, upon review and approval by UDEQ, become an attachment to the agreement. The workplan will contain the scope and objectives of the voluntary action and outline a public participation process appropriate for the site and work to be performed. Deviations to the workplan must be approved by UDEQ.

### **Certificate of Completion**

Successful completion of site cleanup results in UDEQ issuing a "Certificate of Completion" which provides a liability release to applicants under certain conditions stipulated in the statute. Responsible parties (including owners, operators and lenders) who are originally responsible for a release or contamination under Title 19, Chapter 5, Part 1, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6 Part 3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4, Underground Storage Tank Act are **not** eligible for the release of liability accompanying the Certificate of Completion. The Certificate of Completion and the release of liability associated with it is transferrable under certain conditions allowed by the statute (see 19-8-113(3)(a)Utah Code Annotated) .

### **Permits**

State or local permits are not required for work done under a voluntary agreement with UDEQ, unless required by a program delegated to the state by the federal government. For all cleanups, the substantive requirements of any permits that may normally be required must be met.

## **Enforcement Provisions**

There are no provisions for enforcement actions built into the voluntary agreement. Either party has the right to terminate a voluntary agreement by providing a written 15 day notice to the other party indicating termination. Termination may be for any reason. However, if termination by the applicant results in site conditions posing a threat to human health and the environment, UDEQ may use any or all existing enforcement authorities available to mitigate the threats believed to be presented by the site or site conditions.

## **Summary**

The goal of the program is to promote the cleanup of contaminated sites under a cooperative, regulatory-friendly framework. Through voluntary cleanups, the residents and resources of the State of Utah will be protected and the quality of life in the state improved and enhanced. UDEQ is committed to the programs success and thanks you for your interest in the Voluntary Cleanup Release Cleanup Program.